IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

United States Court of Appeals
Fifth Circuit
FILED
October 28, 2009
Charles R. Fulbruge III
Clerk

No. 09-20314
Summary Calendar

REBECCA VLASEK

Plaintiff-Appellant

v.

WAL-MART STORES, INC., A Delaware Corporation; SAM'S EAST, INC., A Delaware Corporation

Defendants-Appellees

Appeal from the United States District Court
for the Southern District of Texas

Lower Docket Number 4:08-CV-3362

Before. JOLLY, WIENER, and ELROD, Circuit Judges.

PER CURIAM:[*]

Plaintiff-Appellant Rebecca Vlasek is here appealing the dismissal of her second employment discrimination action against her former employers, Defendants-Appellees, this one grounded primarily in allegations of discrimination on the basis of sex, which she had failed to allege in her initial action and was unsuccessful in her efforts to amend her complaint in that first

[*] Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

action to include such charges. The district court dismissed the instant sex discrimination action as barred by res judicata or claim preclusion as a result of the dismissal of Vlasek's initial complaint. Vlasek had not appealed that judgment, electing instead to file a new complaint, the dismissal of which is the subject of the instant appeal.

The parties have represented to us that the issues are purely legal and that oral argument is not necessary, so we shall dispose of this one on the basis of the record on appeal, including the briefs of the parties and the Memorandum and Opinions of the district court in both of Vlasek's cases, albeit only the second is before us now.

Our review of these data and the applicable law satisfies us that, irrespective of any underlying merits or sympathetic equities that might have been presented by the merits of the claims that Vlasek has twice sought to litigate, the dismissal of all her claims on both occasions were inescapably mandated by the law applicable to their timing and filings, making inescapable the conclusion that the judgment of the district court here appealed is imminently correct for the reasons painstakingly explained in its Memorandum and Opinion of April 14, 2009. Accordingly, for essentially the same reasons thus laid out by the district court, the judgment here appealed is, in all respects, AFFIRMED.